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Attorneys for Defendant Barry C. Honig

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

CREIGHTON TAKATA, Individually and on
behalf of all others similarly situated,

Plaintiff,

vs.

RIOT BLOCKCHAIN, INC. F/K/A, BIOPTIX,
INC., JOHN O'ROURKE, and JEFFREY
MCGONEGAL,

Defendants.

Civil Action No.: 18-2293(FLW)(ZNQ)

**AMENDED NOTICE OF MOTION TO
DISMISS PLAINTIFF'S SECOND
CONSOLIDATED AMENDED CLASS
ACTION COMPLAINT**

MOTION RETURN DATE: MAY 3, 2021

ORAL ARGUMENT REQUESTED

PLEASE TAKE NOTICE that on May 3, 2021, or as soon as the Court deems appropriate, Defendant Barry C. Honig ("Mr. Honig") will appear before the Honorable Freda L. Wolfson, U.S.D.J., at the United States District Court for the District of New Jersey, 402 State Street, Courtroom 5E, Trenton, New Jersey, and will move this Court, pursuant to Fed. R. Civ. P. 12(b)(6) and 9(b), and the Private Securities Litigation Reform Act of 1995, 15 U.S.C. § 78u-4,

et seq., for an Order dismissing Lead Plaintiff's Consolidated Second Amended Class Action Complaint for Violations of the Federal Securities Law, with prejudice.

PLEASE TAKE FURTHER NOTICE THAT Mr. Honig shall rely upon the Declaration of Robert D. Weber with exhibits [Dkt. Nos. 196-4 through 196-12], Request for Judicial Notice [Dkt. No. 196-3], Memorandum of Law in Support [Dkt. No. 196-1], and all papers submitted herewith.

PLEASE TAKE FURTHER NOTICE THAT a proposed form of Order [Dkt. No. 196-2] is also submitted for the Court's consideration.

Dated: February 12, 2021

Respectfully submitted,

SHEPPARD, MULLIN, RICHTER
& HAMPTON LLP

By: /s/ Tyler E. Baker

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